

Michigan Department of Civil Service

REGULATION

Appointing Authority Letter Reference: CS-6896	Effective Date: March 24, 1999 <u>August 20, 2000</u>	Index Reference: Integrity of <u>Appraisal</u> Process <u>Methods</u> ; Removal from <u>Applicant</u> <u>Pools</u>	Regulation Number: 3.08 <u>06</u>
Issuing Bureau: Technical <u>Review</u> <u>Human</u> <u>Resource Services</u>	Rule Reference: Sections Rules <u>1-7.2, 1-7.5(b)2-6.4(b), 2-20B.22-19.1, 3-2.73-1.5, and 3-3.33-2.2</u>		Replaces: NEW <u>Regulation 3.08</u> <u>CS-6896</u> <u>March 24, 1999</u>
Subject: SANCTIONS FOR VIOLATING <u>EXAMINATION-APPRAISAL METHOD</u> INTEGRITY			

AUTHORITY:

The Michigan Constitution of 1963, Article XI, Section 5, states in part:

~~No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion.~~

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1. PURPOSE

This regulation establishes the guidelines for sanctions when applicanta person's conduct violates the integrity of the appraisal process. The Department of Civil Service staff, with approval from a group leader, may invoke these sanctions when staff determines that an applicanta person engaged in practices prohibited in Rules 3-2.73-1.5, or 1-7.5(b)2-6.4(b).

2. CIVIL SERVICE COMMISSION RULE REFERENCE

~~Civil Service Commission Rules 3-2.7, 3-3.3, 1-7.2, 1-7.5, and 2-20B.2 state:~~

A. ~~1-7.5(b)~~ 2-6.4(b) *New hires.* — If a person given a conditional offer of employment fails or refuses to submit to the preemployment drug test, interferes with a test procedure, or tampers with a test sample, the conditional offer of employment shall be rescinded and the person shall not be appointed to a position in the classified service. The person ~~shall~~ also ~~be~~is removed from ~~all employment lists~~ applicant pools and ~~shall be~~is disqualified from appointment to the classified service for a period of ~~three~~3 years.

B. ~~2-20B.22-19.1~~ *Appeal of Technical Decision Authorized.* — A person directly affected and aggrieved by a technical decision is authorized to file a technical appeal within ~~fourteen~~ (14) calendar days after the date of mailing of the technical decision. The technical appeal shall be filed with the department of civil service.

C. ~~3-2.73-1.5~~ *Integrity of Process.* — An applicant shall comply with the established procedures and processes ~~to be considered for examination or appointment.~~

(a) **Prohibited Practices.** During the application, examination, appraisal, or appointment process, an applicant shall not do any of the following:

- (1) Make any false statements or omissions of a material fact.
- (2) Misrepresent education or experience.
- (3) Engage in deception or fraud.
- (4) Cheat.
- (5) Compromise the integrity of the examination-appraisal process.
- (6) Violate rule 2-6, Drug and Alcohol Testing.

(b) **Sanctions.** If the department of civil service finds that an applicant has engaged in any prohibited act, the department may do any of the following:

- (1) Cancel or limit the applicant's eligibility for state employment.
- (2) Require the separation of the applicant from state employment.
- (3) Impose any other or additional sanction that is appropriate.

D. ~~3-33-2.2~~ *Removal from Employment—List Applicant Pool.* — The department of civil service may remove a person from an employment list applicant pool for any one of the following reasons:

- (a) Appointment.
- ~~(b) Failure to respond to an inquiry regarding possible employment.~~
- ~~An indication of lack of interest in an employment opportunity.~~

~~Failure to accept employment.~~

(b) Separation or retirement from state service.

~~(f)(c)~~ Evidence that the person is unable to perform satisfactorily, with or without reasonable accommodations, the essential duties of the job.

~~(g)(d)~~ Evidence of conduct that indicates that the person is unfit or unsuitable for appointment.

~~(h)(e)~~ Conduct that violates rule ~~3-2.73-1.5~~.

~~(i)(f)~~ Expiration of ~~eligibility~~the applicant pool or eligibility.

~~1.7.1 Prohibited Activities. — A classified employee shall not do any of the following:~~

~~(a) Consume alcohol or use drugs while on duty.~~

~~(b) Report to duty or be on duty with a prohibited level of alcohol or drugs present in the employee's bodily fluids.~~

~~(c) Refuse to submit to a required drug test or alcohol test.~~

~~(d) Interfere with any testing procedure or tamper with any test sample.~~

3. DEFINITIONS:

A. Civil Service Commission Rules Definitions:

- 1.** ~~Applicant means a person who requests to participate in an~~ examination-appraisal ~~process. An applicant may or may not be a state employee.~~
- 2.** ~~Employment List~~Applicant pool means a list of persons qualified for appointment to a position in the classified service.
- 3.** ~~Examination Process~~Appraisal Method means ~~any method a technique used to assess a person's qualifications, suitability, and capability to perform work in the classified service. Examination processes include, but are not limited to, evaluations of credentials, paper and pencil tests, oral appraisal assessments, performance tests, background investigations, physical agility tests, psychological tests, drug tests, and alcohol tests~~evaluate job-related knowledge, skills, abilities, competencies, and other qualifications to determine eligibility for a position in the classified service.

B. Additional Definition as used in this Regulation:

1. Credentials means ~~statements and documents that provide~~ information ~~about an applicant's submitted by an applicant about their~~ experience, education, possession of certificates and licenses, and any other capabilities that may materially affect the applicant's qualifications to participate in examination appraisal processes.

4. STANDARDS:

~~1.A. When proof exists that an applicant has engaged in prohibited practices, as identified in Rules 3-2.7, 1-7.2, or 1-7.5(b), If the Department of Civil Service finds that a person has engaged in any prohibited act, the applicant that person~~ shall be:

- ~~C.1.~~ 1. Removed from any and all employment lists applicant pools and applicant referral mechanisms for a minimum period of three years.
- ~~b.2.~~ 2. Prohibited from participating in future examination appraisal processes for a minimum period of three years.
- ~~c.3.~~ 3. Ineligible for appointment to a classified position for a minimum period of three years.

At the end of the sanctioned period, the person may, if they choose, request in writing, reinstatement of their applicant pool privileges.

If an agency appointing authority discovers that a person has engaged in any prohibited act, the agency is required to notify the Department of Civil Service.

2.B. An applicant~~A person~~ who takes, sells, distributes, circulates, or uses examination material without the express authorization of the Department of Civil Service shall be removed from any and all employment lists applicant pools and referral mechanisms and shall be prohibited from participating in future examination appraisal processes indefinitely, consistent with Standard 4A above.

~~3.C.~~ 3. An appointment ~~of an applicant~~ to a classified position may be decertified, and the ~~applicant employee~~ may be separated from the position, if the ~~applicant employee~~ has engaged in prohibited practices, as identified in Rules 3-2.7 3-1.5 1-7.2, or 1-7.5(b) 2-6.4(b).

4.D. Depending upon the nature and severity of the alleged violation, the Office of Compliance may conduct an investigation. The Department of State Police may also be asked called upon to participate in the investigation.

~~5.E.~~ Sanctions applied under this regulation are subject to the technical appeal process, in accordance with Rule ~~2-20B2-19~~ and Regulation 2.03.

~~6.F.~~ Nothing in this procedure precludes the Department of Civil Service from ~~taking initiating~~ civil ~~or criminal legal~~ action or referring for criminal prosecution, anyone against an applicant who has engaged in any prohibited practices.

CONTACT

~~Direct e~~Questions ~~or concerns~~ regarding this regulation should be directed to the ~~Bureau of Technical Review, Central Support Team, at (517) 373-3072, Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or MDCS@state.mi.us.~~

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.

~~This regulation is issued in accordance with subsections 2-13.5 and 1-7.10 of the Michigan Civil Service Commission Rules.~~